

Client Alert **Employment & Labor**

New Jersey Businesses Face Additional COVID-19 Mitigation Requirements

On April 8, 2020, New Jersey Governor Phil Murphy signed Executive Order No. 122, imposing additional mitigation requirements on essential retail businesses and industries to limit the spread of COVID-19 in the state. The order, which takes effect on Friday, April 10, 2020, at 8 PM, also outlines specific protections and policies for all essential retail, manufacturing, and warehousing businesses.

In a nutshell, the order directs the following:

1. Essential retail businesses that are still permitted to operate under Executive Order No. 107 (2020) must:

- Limit occupancy at 50% of the stated maximum store capacity, if applicable, at one time;
- Establish hours of operation, wherever possible, that permit access solely to high-risk individuals, as defined by the CDC;
- Install a physical barrier between customers and cashiers/baggers wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment and/or exchange of goods;
- Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;
- Provide employees break time for repeated handwashing throughout the workday;
- Arrange for contactless pay options, pickup, and/or delivery of goods wherever feasible;
- Provide sanitization materials, such as hand sanitizers and sanitizing wipes, to staff and customers;

April 9
2020

This Client Alert has been prepared by Sills Cummis & Gross P.C. for informational purposes only and does not constitute advertising or solicitation and should not be used or taken as legal advice. Those seeking legal advice should contact a member of the Firm or legal counsel licensed in their state. Transmission of this information is not intended to create, and receipt does not constitute, an attorney-client relationship. Confidential information should not be sent to Sills Cummis & Gross without first communicating directly with a member of the Firm about establishing an attorney-client relationship.

- Require frequent sanitization of high-touch areas;
 - Place conspicuous signage at entrances and throughout the store, if applicable, alerting staff and customers to the required six feet of physical distance;
 - Demarcate six feet of spacing in check-out lines to demonstrate appropriate spacing for social distancing; and
 - Require workers and customers to wear cloth face coverings while on the premises, except where doing so would inhibit that individual's health (or where the individual is under two years of age), and require workers to wear gloves when in contact with customers or goods. Businesses must provide, at their expense, such face coverings and gloves for their employees.
- 2. The physical operations of all non-essential construction projects must cease, as more fully described in our Firm's earlier alert, ["Governor Murphy Announces Shutdown of Non-Essential Construction."](#)**
- 3. Manufacturing and warehousing businesses, and businesses engaged in essential construction projects, must adopt policies that, at a minimum:**
- Prohibit non-essential visitors from entering the worksite;
 - Limit worksite meetings, inductions, and workgroups to groups of fewer than 10 individuals;
 - Require individuals to maintain six feet or more distance between them wherever possible;
 - Stagger work start and stop times where practicable to limit the number of individuals entering and leaving the worksite concurrently;
 - Stagger lunch breaks and work times where practicable to enable operations to safely continue while utilizing the least number of individuals possible at the site;
 - Restrict the number of individuals who can access common areas, such as restrooms and breakrooms, concurrently;
 - Require workers and visitors to wear cloth face coverings, in accordance with CDC recommendations, while on the premises, except where doing so would inhibit the individual's health (or the individual is under two years of age), and require workers to wear gloves while on the premises. Businesses must provide, at their expense, such face coverings and gloves for their employees.
 - Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;
 - Limit sharing of tools, equipment, and machinery;
 - Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to workers and visitors; and
 - Require frequent sanitization of high-touch areas like restrooms, breakrooms, equipment, and machinery.

4. **All essential retail, warehousing, and manufacturing businesses, as well as businesses performing essential construction projects, must also adopt policies that, at a minimum, require:**
- Immediately separating and sending home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day;
 - Promptly notifying workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;
 - Cleaning and disinfecting the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness; and
 - Continuing to follow guidelines and directives issued by the New Jersey Department of Health, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe and healthy work environment.

Attorneys in our Employment and Labor Law Practice Group can assist employers regarding the issues raised in this alert.

Grace A. Byrd, Esq.

Client Alert Issue Co-Author; Of Counsel, Employment and Labor Practice Group
gbyrd@sillscummis.com | (973) 643-6792

Clifford D. Dawkins, Jr., Esq.

Client Alert Issue Co-Author; Associate, Employment and Labor Practice Group
cdawkins@sillscummis.com | (973) 643-3381

Jill Turner Lever, Esq.

Client Alert Issue Co-Author; Of Counsel, Employment and Labor Practice Group
jlever@sillscummis.com | (973) 643-5691

David I. Rosen, Esq.

Client Alert Issue Editor; Chair, Employment and Labor Practice Group
drosen@sillscummis.com | (973) 643-5558